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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,386	12/21/2001	Ronald Michalski	(13426)	6801
7590	04/16/2004		EXAMINER	
Steven W Weinrieb SCHWARTZ & WEINRIEB 2001 Jefferson Davis Highway Crystal Plaza One Suite 1109 Arlington, VA 22202			CHAN, SING P	
			ART UNIT	PAPER NUMBER
			1734	
DATE MAILED: 04/16/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	Applicant(s)	
10/037,386	MICHALSKI ET AL.	
Examiner	Art Unit	
Sing P Chan	1734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 2-8 and 17-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 2-8 and 17-23 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 28 February 2002 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/21/01.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2-5, 7, 17, 20, 22, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winn deceased (U.S. 5,168,883) in view of Price (U.S. 4,317,319).

Regarding claims 2, 5, 17, 22, and 23, Winn discloses an apparatus for applying tax stamps to cigarettes in cartons. The apparatus includes a conveyor, a cigarette carton height determination station, a cigarette carton opening station with carton opening means, a tax stamp application station with tax stamp application means, cigarette carton closing station with carton closing means, and means for adjusting the height of the carton opening means and tax stamp application means. (Col 3, line 16 to Col 5, line 6) Wherein the photoelectric cells automatically determine the size or height of the carton, (Col 3, lines 39-42) which are considered to be capable of both detecting the presence of a particular size of carton and determining the height. Winn is silent as to the height determining means is operatively connected to first means for automatic adjusting the elevational disposition of the tax stamp applicator. However, operatively connecting the first means to height determining means for automatic height adjustment is well known and conventional as shown for example by Price. Price discloses an apparatus for height sensing for a box closer. The apparatus includes a sensing station

with two vertically spaced optical sensors such as photocells and the sensors are operatively in communication to the logic control, i.e. first means, which is considered to be programmable with connection made by a wire and automatically adjusting the height of the box closing and sealing unit. (Col 5, lines 5-40, Col 6, lines 11-13, and Col 6, lines 39-52)

It would have been obvious to one skilled in the art at the time the invention was made to operatively connect the sensor, i.e. sensing means, to the logic control as disclosed by Price in the apparatus of Winn to allow easy automatic height adjustment for any devices or means.

Regarding claim 3, Winn discloses a carton opening station between the sizing station and the stamping station and a carton closing station downstream of the stamping station. (Col 3, line 53 to Col 4, line 4 and Col 4, lines 55-61)

Regarding claim 4, Winn discloses a pair of beveled pinch roller, i.e. doming wheels, to cause the carton flaps to pop up and a plow knife to open the carton flaps, and at the carton closing station includes a glue trough, i.e. glue pot, and glue wheel for applying glue to the flaps, carton flap closer pushes the flaps downward and closing roller pushes the flaps shut. (Col 3, line 53 to Col 4, line 4 and Col 4, line 55 to Col 5, line 6)

Regarding claims 7 and 20, Winn discloses pads for propelling the cartons through the apparatus (Col 3, lines 24-28 and Figures 1 and 2) to convey cartons of various heights through the apparatus and the various stations are considered to be equally spaced.

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Winn, deceased (U.S. 5,168,883) in view of Price (U.S. 4,317,319) as applied to claim 5 above, and further in view of Ferguson (U.S. 5,657,855).

Regarding claim 6, Winn as modified above is silent as to the height adjustment is made with servomotors. However, using motor to adjust the height of the stations is well known and conventional as shown for example by Price. Price discloses drive motor for adjusting the height of the sensing head. (Col 6, lines 50-52)

It would have been obvious to one skilled in the art at the time the invention was made to provide a motor to adjust the height of the applicator as disclosed by Price in the apparatus of Winn to provide a means, which is readily available and easily obtain cheaply to adjust the height of the applicator. Price is silent as the motor is a servomotor. However, using a servomotor to provide the needed stepwise rotation of axle or shaft is well known and conventional as shown for example by Ferguson. Ferguson discloses an apparatus for applying indicia for cigarette packages. The apparatus includes servomotor to provide an accurate and fast positioning with 24,000 steps to move the wheel 45 degree. (Col 3, lines 48-61)

It would have been obvious to one skilled in the art at the time the invention was made to provide servo motor as disclosed by Ferguson in the apparatus of Winn to provide an accurate and fast positioning means for the height adjustment to allow the applicators or stations to be positioned quickly and accurately.

4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Winn, deceased (U.S. 5,168,883) as applied to claim 1 above, and further in view of Baker et al (U.S. 4,101,362).

Winn discloses a holder for the tax stamp paper with predetermined row and column array of tax stamps is provided and a stamping head for applying the tax stamps to the cigarette package. (Col 4, lines 5-54) Winn is silent as to the stamping head includes spaced stamping shoe and the head is linearly longitudinally movable.

However, providing spaced stamping shoe on the stamping head and is linearly longitudinally movable are well known and conventional as shown for example by Baker et al. Baker et al discloses an apparatus for applying transfer such as tax stamp to cartons. The apparatus includes a series of platen elements on the platen, i.e. stamp head, to properly transfer the tax stamps to the cigarette packages. (Col 10, lines 35-66) The stamp head also movable in a lateral direction for adjustment to insure proper placement of the tax stamps onto the cigarette packages. (Col 8, lines 42-58)

It would have been obvious to one skilled in the art at the time the invention was made to provide platen elements or shoes on the stamp head and providing lateral adjustment, i.e. linearly longitudinally movement for the stamp head, to allow accurate placement of the stamps onto the cigarette packages as disclosed by Baker et al in the apparatus of Winn to allow the stamp head to be adjusted insure proper placement of the stamps quickly and easily.

5. Claims 18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winn, deceased (U.S. 5,168,883) in view of Price (U.S. 4,317,319) as applied to claim 23 above, and further in view of Baker et al (U.S. 4,101,362).

Winn discloses the opening means for the carton opening station includes two beveled pinch rollers, i.e. doming wheel, a plow knife for inserting under the flaps to opens the flaps, (Col 3, line 55 to Col 4, line 4) the stamp application means includes stamping head, i.e. stamping iron, for transferring the stamps to the packs of cigarettes, holder for a roll of tax stamp, which allow the stamps to be advanced so as to present new rows of tax stamps, (Col 4, lines 5-54) and carton closing means includes a glue trough, i.e. a glue pot, glue wheels, flaps closer and roller press the flaps shut. (Col 4, line 55 to Col 5, line 6) Winn does not disclose stamping shoes for engaging the spaced tax stamps. However, providing stamping shoes for engaging spaced tax stamps is well known and conventional as shown for example by Baker et al. Baker et al discloses an apparatus for applying transfer such as tax stamps to cigarette packages. The apparatus includes platen with platen elements, stamping shoes, corresponding to the tax stamps placement on the roll for applying the stamps to the cigarette packages. (Col 10, lines 35-66) The stamp head also movable in a lateral direction for adjustment to insure proper placement of the tax stamps onto the cigarette packages. (Col 8, lines 42-58)

It would have been obvious to one skilled in the art at the time the invention was made to provide stamping shoes on the stamping head as disclosed by Backer et al in

the apparatus of Winn to provide a simple and easy means for insure proper transfer of stamps to the cigarettes packages.

6. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Winn, deceased (U.S. 5,168,883) in view of Price (U.S. 4,317,319) and further in view of Baker et al (U.S. 4,101,362) as applied to claim 18 above, and further in view of Ferguson (U.S. 5,657,855).

Winn as modified above is silent as to using servomotors to adjust the height of the stations. However, using motor to adjust the height of the assembly or applicator is well known and conventional as shown for example by Price. Price discloses the assembly or sensors head is adjusted using electric motors. (Col 6, lines 50-52)

It would have been obvious to one skilled in the art at the time the invention was made to provide drive motors as disclosed by Price in the apparatus of Winn to adjust the height position of the assembly easy with means, which are readily available and easily obtain. Price is silent as to the drive motors are servomotors. However, providing servomotor as the drive motors are well known and conventional as shown for example by Ferguson. Ferguson discloses an apparatus for applying indicia to cigarette packages. The apparatus includes servomotor for various driving system for axle or shaft. (Col 3, lines 48-61)

It would have been obvious to one skilled in the art at the time the invention was made to provide servo motors as drive motors as disclosed by Ferguson in the apparatus of Winn to provide the fine adjustment needed for accurately positioning the assembly or station easily and quickly.

***Response to Arguments***

7. Applicant's arguments with respect to claims 2-8 and 17-23 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sing P Chan whose telephone number is 571-272-1225. The examiner can normally be reached on Monday-Friday 7:30AM-11:15AM and 12:15PM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard D Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Chan Sing P.*  
spc

*Richard Crispino*  
RICHARD CRISPINO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700